

In re Application of MOORE et al.
Serial No. 09/742,795

REMARKS

The Office action has been carefully considered. The Office action rejected claims 1-4, 11-20, and 22-30 under 35 U.S.C. § 102(b) as being anticipated by "BugNet Cybermedia Oil Change Version 2.5, 1998, ("BugNet"). Further, the Office action rejected claims 5-6 and 8-9 under 35 U.S.C. § 103(a) as being unpatentable over BugNet in view of Japanese Patent No. 09-288572 to Yasui et al. ("Yasui"). Further yet, the Office action rejected claim 7 under 35 U.S.C. § 103(a) as being unpatentable over BugNet in view of Yasui and further in view of U.S. Patent No. 5,944,821 to Angelo et al. ("Angelo"). Still further, the Office action rejected claims 10 and 21 under 35 U.S.C. § 103(a) as being unpatentable over BugNet in view of Official Notice. The Office action made no reference whatsoever to claims 31-34 of the application. Regarding the rejections, applicants respectfully disagree.

By present amendment, claims 1, 17, and 27 have been amended for clarification and not in view of the prior art. Applicants submit that the claims as filed were patentable over the prior art of record, and that the amendments herein are for purposes of clarifying the claims and/or for expediting allowance of the claims and not for reasons related to patentability. Reconsideration is respectfully requested.

Applicants thank the Examiner for the interview held (by telephone) on February 1, 2005. During the interview, the Examiner and applicants' attorney discussed the claims with respect to the prior art. The essence of applicants' position is incorporated in the remarks below.

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Prior to discussing reasons why applicants believe that the claims in this application are clearly allowable in view of the teachings of the cited and applied references, a brief description of the present invention is presented.

The present invention is directed to a system and method for facilitating automatic software updates from an online source such as the Internet without being required to have established a connection to the online source in order to determine whether an update (e.g., a driver or software component) is available or is not available online. Information relating to available online updates (or lack thereof) may be stored in a local cache whereby each available update may correspond to drivers and/or other software components. That is, information that an update is available online is stored as well as information that an update is not available online. Thus, when a particular application may need to check for the availability of an update, instead of establishing a connection to the online source, the local cache may be accessed to determine if there is, in fact, an update that may need to be retrieved from the online source. It may also be definitively determined by accessing the local cache that an update is, in fact, not available. In this manner, if no update may be needed as determined from the information stored in the local cache, a connection to the online source may not need to be made.

This may be especially beneficial for computers and/or computer users who do not always have access to a network, such as the Internet. When a device may be installed or software components may be detected, instead of requiring a connection to enable updates, the cached information may be evaluated to

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determine whether the update is available online. If so, the user may defer making the connection, for instance, and the update may happen automatically and/or in the background on the next online connection.

Note that the above description is for example and informational purposes only, and should not be used to interpret the claims, which are discussed below.

§102(b) Claim Rejections

Turning to the claims, amended claim 1 recites a computer-implemented method, comprising at a client computer, obtaining information about the availability or unavailability of updates from a server, storing the information about available and unavailable updates at a local cache on the client computer, and in response to a request for update information that may be available at the server, accessing the local cache to retrieve the information about available updates and unavailable updates.

The Office action rejected claim 1 as being anticipated by BugNet. More specifically, the Office action contends that BugNet discloses at a client computer, obtaining information about available updates from a server. Page 1, lines 1-3 of BugNet is referenced. Further, the Office action contends that BugNet discloses storing the information about available updates at a local cache on the client computer. Page 6, lines 10-15, page 7, lines 5-6, and page 4 lines 10-15 of BugNet are referenced. Finally, the Office action contends that BugNet discloses, in response to a request for update information that may be available at the server, accessing the local cache to retrieve the information about available updates.

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Page 2, lines 1-10 and 13-16 of BugNet are referenced. Applicants respectfully disagree.

As has been argued in the previous Office action response, BugNet is directed, generally, to a system and method for providing update information about several programs by accessing online sources to determine the availability of those potential updates. In fact, by requiring a connection to the Internet (or other online source) in order to periodically scan for updates as they become available, BugNet is an example of the very problem that the present invention may overcome. See page 2, lines 13-14 of BugNet. A user of BugNet may choose to download the update at that time or at a later time (See page 3, lines 1-3), however, in order to determine if an update is available, the system must use the connection to the Internet to determine the availability. Furthermore, if information about an update is not stored in the local store of update information, BugNet must necessarily connect to the Internet in order to definitively check for updates. BugNet does not, in any manner, store information about the unavailability of updates.

In contrast, amended claim 1 recites storing information about both available updates and unavailable updates at a local cache on the client computer, and in response to a request for update information that may be available at the server, accessing the local cache. Information about available updates as well as unavailable updates may be retrieved from an online source at some prior point in time (*i.e.*, before the request for update information) such that any retrieved information can be made available in a local cache at a later point in time (*i.e.*, in response to a request for update information). In short, BugNet does not teach

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these recitations of claim 1. Thus, for at least the foregoing reasons, applicants submit that claim 1 is allowable over the prior art of record.

Applicants respectfully submit that dependent claims 2-4 and 11-16, by similar analysis, are allowable. Each of these claims depends either directly or indirectly from claim 1 and consequently includes the recitations of independent claim 1. As discussed above, BugNet fails to disclose the recitations of claim 1 and therefore these claims are also allowable over the prior art of record. In addition to the recitations of claim 1 noted above, each of these dependent claims includes additional patentable elements.

For example, claim 3 recites the computer-implemented method of claim 1 wherein obtaining information about available updates from the server includes obtaining data that changes the information about available updates in the local cache. As discussed above, BugNet does not store information about the availability or unavailability of updates in a local cache. Consequently, BugNet cannot possibly teach obtaining further information that may change the information already stored in the local cache. Applicants submit that claim 3 is allowable for at least this additional reason.

Turning to the next independent claim, amended claim 17 recites a system comprising, network access software configured to access a network, a cache, a cache maintenance mechanism connected to the network access software and configured to maintain information in the cache corresponding to available updates maintained on the network and corresponding to unavailable updates, and automatic update software connected to access the cache in response to a request

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for update information on the network, and to determine from the information in the cache whether an update is available or not available.

The Office action rejected claim 17 as being anticipated by BugNet. More specifically, the Office action contends that BugNet discloses network access software configured to access a network. Page 1, lines 1-3 of BugNet is referenced. Further, the Office action contends that BugNet discloses a cache and a cache maintenance mechanism connected to the network access software and configured to maintain information in the cache corresponding to available updates maintained on the network. Page 2, lines 1-10 and page 7, lines 5-6 of BugNet are referenced. Finally, the Office action contends that BugNet discloses automatic update software connected to access the cache in response to a request for update information on the network, and to determine from the information in the cache whether an update is available. Page 2, lines 1-10 and lines 13-16 of BugNet are referenced. Applicants respectfully disagree.

As discussed above, the method and system disclosed in BugNet does not use a local cache to store information about available updates and unavailable updates. Thus, BugNet cannot possibly teach a cache maintenance mechanism connected to the network access software and configured to maintain information in the cache corresponding to available updates maintained on the network and corresponding to unavailable updates. Rather, in Bug Net, all information about available updates is stored at the various server computers of the very online sources associated with the makers of each individual application to be updated. Once again, access to the online sources of this information is required at the time

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the request is made to determine whether or not an update is available as BugNet does not teach storing information about the availability or unavailability of updates.

Furthermore, claim 17 recites automatic update software connected to access the cache in response to a request for update information on the network. In contrast, BugNet teaches accessing each individual online source when the request is made and particularly when an update is unavailable. As discussed above, BugNet does not use a local cache to store update information when an update is not available, therefore, any request for update information must necessarily be directed to the respective online source which requires Internet access. For at least these reasons, applicants submit that claim 17 is allowable over the prior art of record.

Applicants respectfully submit that dependent claims 18-20 and 22-26, by similar analysis, are allowable. Each of these claims depends either directly or indirectly from claim 17 and consequently includes the recitations of independent claim 17. As discussed above, BugNet fails to disclose the recitations of claim 17 and therefore these claims are also allowable over the prior art of record. In addition to the recitations of claim 17 noted above, each of these dependent claims includes additional patentable elements.

Turning to the next independent claim, amended claim 27 recites a computer-readable medium having computer executable instructions, comprising accessing an online source to obtain information related to available updates and information related to unavailable updates, caching the information, receiving a request directed to whether a particular update is available or is not available for

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download from the online source, and accessing the cache to determine whether the particular update is available for download from the online source.

The Office action rejected claim 27 as being anticipated by BugNet. More specifically, the Office action contends that BugNet discloses accessing an online source to obtain information related to available updates. Page 1, lines 1-3 of BugNet is referenced. Further, the Office action contends that BugNet discloses caching the information. Page 7, lines 5-6 of BugNet is referenced. Still further, the Office action contends that BugNet discloses receiving a request directed to whether a particular update is available for download from the online source. Page 2, lines 1-10 of BugNet is referenced. Finally, the Office action contends that BugNet discloses accessing the cache to determine whether the particular update is available for download from the online source. Page 2, lines 1-10, page 7, lines 5-6 and page 3, lines 12-13 of BugNet are referenced. Applicants respectfully disagree.

Claim 27 recites a computer-readable medium having computer executable instructions, comprising, accessing an online source to obtain information related to available updates and information related to unavailable updates, caching the information, receiving a request directed to whether a particular update is available for download from the online source, and accessing the cache to determine whether the particular update is available or is not available for download from the online source. As previously discussed, BugNet does not teach a local cache to store information about available updates and unavailable updates. Nor does BugNet teach caching the information obtained online that is related to the

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As discussed above, BugNet fails to disclose the recitations of claim 27 and therefore these claims are also allowable over the prior art of record. In addition to the recitations of claim 27 noted above, each of these dependent claims includes additional patentable elements.

Regarding claims 31-34, applicants submit that these claims are allowable over the prior art of record. Since the Office action cited no specific rejection to

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download from the online source, and accessing the cache to determine whether the particular update is available for download from the online source.

The Office action rejected claim 27 as being anticipated by BugNet. More specifically, the Office action contends that BugNet discloses accessing an online source to obtain information related to available updates. Page 1, lines 1-3 of BugNet is referenced. Further, the Office action contends that BugNet discloses caching the information. Page 7, lines 5-6 of BugNet is referenced. Still further, the Office action contends that BugNet discloses receiving a request directed to whether a particular update is available for download from the online source. Page 2, lines 1-10 of BugNet is referenced. Finally, the Office action contends that BugNet discloses accessing the cache to determine whether the particular update is available for download from the online source. Page 2, lines 1-10, page 7, lines 5-6 and page 3, lines 12-13 of BugNet are referenced. Applicants respectfully disagree.

Claim 27 recites a computer-readable medium having computer executable instructions, comprising, accessing an online source to obtain information related to available updates and information related to unavailable updates, caching the information, receiving a request directed to whether a particular update is available for download from the online source, and accessing the cache to determine whether the particular update is available or is not available for download from the online source. As previously discussed, BugNet does not teach a local cache to store information about available updates and unavailable updates. Nor does BugNet teach caching the information obtained online that is related to the

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available update and related to the unavailable update. Rather, all information about available updates and unavailable updates is stored at the various server computers of the very online sources associated with the makers of each individual application to be updated. Once again, access to the online sources of this information is required at the time the request is made to determine definitively that an update is available or not available.

Furthermore, claim 27 recites accessing the cache to determine whether the particular update is available or is not available for download from the online source. As discussed above, BugNet does not access a local cache to answer this question. Rather, BugNet must access each respective online source for each application in order to definitively determine that an update is available or not available. Thus, for at least these reasons, applicants submit that claim 27 is allowable over the prior art of record.

Applicants respectfully submit that dependent claims 28-30, by similar analysis, are allowable. Each of these claims depends either directly or indirectly from claim 27 and consequently includes the recitations of independent claim 27. As discussed above, BugNet fails to disclose the recitations of claim 27 and therefore these claims are also allowable over the prior art of record. In addition to the recitations of claim 27 noted above, each of these dependent claims includes additional patentable elements.

Regarding claims 31-34, applicants submit that these claims are allowable over the prior art of record. Since the Office action cited no specific rejection to

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these claims, applicants stand on the merits of the claims themselves as patentable.

§103(a) Claim Rejections

The Office action rejected claims 5-10, and 21 under 35 U.S.C. § 103(a) as being unpatentable over BugNet in view of either Yasui, Angelo, Official Notice or some combination thereof. Claims 5-6 and 8-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over BugNet in view of Yasui. Each of these claims depend either directly or indirectly from claim 1 and consequently include the recitations of claim 1. As discussed above, Bugnet fails to disclose the recitations of claim 1. Nor does Yasui disclose the recitation of claim 1. Neither Bugnet nor Yasui, whether considered alone or in any permissible combination, disclose or suggest the recitations of claim 1, and, therefore, dependent claims 5-6 and 8-9 are also allowable over Bugnet and Yasui. In addition to the recitations of claim 1 noted above, each of these dependent claims includes additional patentable elements.

Claim 7 was rejected under 35 U.S.C. § 103(a) as being unpatentable over BugNet in view of Yasui and further in view of Angelo. Claim 7 depends indirectly from claim 1 and consequently includes the recitations of claim 1. As discussed above, Bugnet fails to disclose the recitations of claim 1. Yasui fails to disclose the recitations of claim 1. And Angelo fails to disclose the recitations of claim 1. Neither Bugnet, Yasui, nor Angelo, whether considered alone or in any permissible combination, disclose or suggest the recitations of claim 1, and, therefore, dependent claim 7 is also allowable over Bugnet, Yasui, and Angelo.

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Claims 10 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over BugNet in view of Official Notice. Claim 10 depends indirectly from claim 1 and consequently includes the recitations of claim 1. And claim 21 depends indirectly from claim 17 and consequently includes the recitations of claim 17. As discussed above, Bugnet fails to disclose the recitations of either claim 1 or claim 17. Therefore, dependent claims 10 and 21, which include the recitations of claim 1 and claim 17 respectively, are also allowable over Bugnet in view of Official Notice.

For at least the reasons discussed above with respect to the §102 and §103 rejections, applicants submit that all the claims are patentable over the prior art of record. Reconsideration and withdrawal of the rejections in the Office action is respectfully requested and early allowance of this application is earnestly solicited.


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CONCLUSION

In view of the foregoing remarks, it is respectfully submitted that claims 1-34 are patentable over the prior art of record, and that the application is in good and proper form for allowance. A favorable action on the part of the Examiner is earnestly solicited.

If in the opinion of the Examiner a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney at (425) 836-3030.

Respectfully submitted,



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